

BEFORE THE FEDERAL ELECTION COMMISSION

2015 NOV 16 PM 2: 24

In the Matter of

MUR 6883

Clint Didier for Congress

and Charlotte Benjamin as treasurer

Clint Didier

DISMISSAL AND

CASE CLOSURE UNDER **TELA**

ENFORCEMENT PRIORITY

SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include, without limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances.

The Office of General Counsel has scored MUR 6883 as a low-rated matter and has determined that it should not be referred to the Alternative Dispute Resolution Office.<sup>1</sup> For the reasons set forth below, the Office of General Counsel recommends that the Commission dismiss the allegations that Clint Didier for Congress and Charlotte Benjamin in her official capacity as treasurer (collectively the "Committee"), and candidate Clint Didier<sup>2</sup> violated the Act or Commission regulations.

<sup>1</sup> The EPS rating information is as follows:

Clint Didier and Clint Didier for Congress Filed: December 8, 2014.

Complaint Filed: October 20, 2014. Response from

<sup>2</sup> Clint Didier was a 2014 candidate for Washington's 4th Congressional District seat. Clint Didier for Congress was the principal campaign committee for Didier's campaign.

1 In this matter, Complainant Timothy Kavis alleges that Clint Didier and the Committee  
2 violated 52 U.S.C. § 30120(d)(1)(B) by airing on broadcast television a political advertisement that  
3 lacked a written statement identifying the candidate and providing the candidate authorization  
4 statement, and a spoken "stand by your ad" statement as required under the Act. Compl. at 1. The  
5 Complainant alleges that the advertisement, which aired on October 16, 2014, included only a  
6 written disclaimer that read "Paid for by Clint Didier for Congress." *Id.*

7 Respondents claim that they first learned about the Complaint from a reporter at one of the  
8 television stations airing the advertisement, and immediately investigated the allegations. After  
9 confirming that the disclaimer was incomplete, the advertisement was withdrawn until it could be  
10 corrected. Resp. at 1. The Respondents note that they asked the advertisement's producer to quickly  
11 add the missing disclaimer language in order to resume the advertisement campaign as soon as  
12 possible. *Id.* Although the Respondents acknowledge that the original disclaimer was insufficient,  
13 they assert that their error was "an honest mistake." *Id.* at 2.

14 Communications that are paid for and authorized by a candidate or his or her authorized  
15 political committee must include a statement that identifies the candidate and states that the  
16 candidate has approved the communication. 52 U.S.C. § 30120(d)(1)(B). For such communications  
17 that are broadcast on television, this statement must include a spoken message and a written  
18 statement appearing at the end of the communication. *Id.*; see also 11 C.F.R. § 110.11(c)(3)(ii)-(iv).  
19 Respondents concede that their ad did not comply with these requirements, but contend that they  
20 remedied the violation by swiftly pulling the advertisement and adding the required language. Resp.

1 at 2.<sup>3</sup>

2 In light of the Respondents' swift remedial action, the likelihood that the public would not  
3 have been misled by the technical nature of the violation, and in furtherance of the Commission's  
4 priorities relative to other matters pending on the Enforcement docket, the Office of General Counsel  
5 believes that the Commission should exercise its prosecutorial discretion and dismiss this matter  
6 pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985). The Office of General Counsel also  
7 recommends that the Commission approve the attached Factual and Legal Analysis and the  
8 appropriate letters, and close the file.

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<sup>3</sup> To support their position, Respondents have provided emails between Committee staff, the advertisement's producers, and staff at the television stations airing the advertisement. Resp. at Exhibits C and D. Those emails generally support Respondents' position by showing that upon learning of the Complaint, Respondents promptly investigated and requested that the ad be pulled off the air on October 16, 2014. *Id.*; see also Resp. at 2. The emails also show that Respondents asked video producers to correct the disclaimer language. *Id.*

**RECOMMENDATIONS**

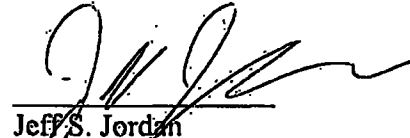
1. Dismiss the allegation that Clint Didier for Congress and Charlotte Benjamin in her official capacity as treasurer violated 52 U.S.C. § 30120(d)(1)(B);
2. Dismiss the allegation that Clint Didier violated 52 U.S.C. § 30120(d)(1)(B);
3. Approve the attached Factual and Legal Analysis and the appropriate letters; and
4. Close the file.

Daniel A. Petalas  
Acting General Counsel

11/16/15  
Date

BY:

  
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